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PHAM, MICHAEL

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/627,915	Applicant(s) YOSHIMURA ET AL.	
	Examiner MICHAEL PHAM	Art Unit 2167	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 October 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,7,8,14,16 and 21-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,7,8,14,16 and 21-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 10/16/08 has been entered.

Status of claims

2. Claims 1, 7, 8, 14, 16, and 21-24 are pending.
3. Claims 1, 7, 8, 14, 16, and 21-24 have been examined.

Priority

4. Should applicant desire to obtain the benefit of foreign priority under 35 U.S.C. 119(a)-(d) prior to declaration of an interference, a certified English translation of the foreign application must be submitted in reply to this action. 37 CFR 41.154(b) and 41.202(e).

Failure to provide a certified translation may result in no benefit being accorded for the non-English application.

Claim Rejections - 35 USC § 112

5. Claim 8 recites the limitation "the system " in line 3 of claim 8. There is insufficient antecedent basis for this limitation in the claim. Claim 14 fails to resolve the deficiencies of claim 8 and is therefore further rejected.

Claim Rejections - 35 USC § 101

6. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

7. Claims 1 and 7 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

MPEP 2106:

The claims lack the necessary physical articles or objects to constitute a machine or a manufacture within the meaning of 35 U.S.C. 101. They are clearly not a series of steps or acts to be a process nor are they a combination of chemical compounds to be a composition of matter. As such, they fail to fall within a statutory category. They are, at best functional descriptive material per se.

Descriptive material can be characterized as either "functional descriptive material" or "nonfunctional descriptive material". Both types of "descriptive material" are nonstatutory when claimed as descriptive material per se, 33 F.3d at 1360, 31 USPQ2d at 1759. When functional descriptive material is recorded on some computer-readable medium, it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized. Compare *In re Lowry*, 32 F.3d 1579, 1583-84, 32 USPQ2d 1031, 1035 (Fed. Cir. 1994)

Merely claiming nonfunctional descriptive material, i.e. abstract ideas, stored on a computer-readable medium, in a computer, or on an electromagnetic carrier signal, does not make it statutory. See *Diehr*, 450 U.S. at 185-86, 209 USPQ at 8 (noting that the claims for an algorithm in *Benson* were unpatentable as abstract ideas because "[t]he sole practical application of the algorithm was in connection with the programming of a general purpose computer"

Claim 1 recites “a service retrieval apparatus”. However, claim 1 fails to contain any computer hardware that is used to implement the apparatus so as to realize its functionality. Thus, the body of claim 1 is merely an abstract idea and is being processed without any links to a practical result in the technology arts and without any computer hardware manipulation. Contrary to arguments made by some Applicants, use of the word “apparatus” does not inherently mean that the claim is directed to a machine. Only if at least one of the claimed elements of the apparatus is a physical part of a device can the apparatus as claimed constitute part of a device or a combination of devices to be a machine within the meaning of 101. Claim 7 fails to resolve the deficiencies of claim 1 and is therefore further rejected.

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8. Claims 8 and 14 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

MPEP 2106:

The claims lack the necessary physical articles or objects to constitute a machine or a manufacture within the meaning of 35 U.S.C. 101. They are clearly not a series of steps or acts to be a process nor are they a combination of chemical compounds to be a composition of matter. As such, they fail to fall within a statutory category. They are, at best functional descriptive material per se.

Descriptive material can be characterized as either “functional descriptive material” or “nonfunctional descriptive material”. Both types of “descriptive material” are nonstatutory when claimed as descriptive material per se, 33 F.3d at 1360, 31 USPQ2d at 1759. When functional descriptive material is recorded on some computer-readable medium, it becomes structurally and functionally interrelated to the medium and will be statutory in most cases since use of technology permits the function of the descriptive material to be realized. Compare *In re Lowry*, 32 F.3d 1579, 1583-84, 32 USPQ2d 1031, 1035 (Fed. Cir. 1994)

Merely claiming nonfunctional descriptive material, i.e. abstract ideas, stored on a computer-readable medium, in a computer, or on an electromagnetic carrier signal, does not make it statutory. See *Diehr*, 450 U.S. at 185-86, 209 USPQ at 8 (noting that the claims for an algorithm in *Benson* were unpatentable as abstract ideas because “[t]he sole practical application of the algorithm was in connection with the programming of a general purpose computer”

Claim 8 recites “a plurality of service retrieval apparatuses” and “the system. However, claim 8 fails to contain any computer hardware that is used to implement the system so as to realize its functionality. Thus, the body of claim 8 is merely an abstract idea and is being processed without any links to a practical result in the technology arts and without any computer hardware manipulation. Contrary to arguments made by some Applicants, use of the word “system” or “apparatus” does not inherently mean that the claim is directed to a machine. Only if at least one of the claimed elements of the system (or apparatus) is a physical part of a device can the system (or apparatus) as claimed constitute part of a device or a combination of devices to be a machine within the meaning of 101. Claim 14 fails to resolve the deficiencies of claim 8 and is therefore further rejected. .

9. Claims 16 and 21 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

In view of MPEP 2106.IV.B: Determine Whether the Claimed Invention Falls Within An Enumerated Statutory Category and based on Supreme Court precedent and recent Federal Circuit decisions, a 35 USC § 101 process must:

1) be tied to another statutory class (such as a particular apparatus) (*Diamond v. Diehr*, 450 U.S.175, 184 (1981); *Parker v. Flook*, 437 U.S. 584 n.9 (1978); *Gottschalk v. Benson*, 409 U.S. 63,70 (1972); *Cochrane v. Deener*, 94 U.S. 780,787-88 (1876))

OR

2) transform underlying subject matter (such as an article or materials) to a different state or thing (*Gottschalk v. Benson*, 409 U.S. 63,71 (1972); and *In re Bilksi*, Appeal No. 2007-1130).

In view of the above reasons, Claims 16 and 21 failed to comply to the above 35 USC § 101 requirements 1) or 2), and therefore are directed to non-statutory subject matter. In other words, the steps require a particular machine or apparatus such that the step cannot be performed mentally or manually in a manner that reasonably accomplishes the intended purpose of the recited invention, as claimed, without the use of a structure. Claim 21 fails to resolve the deficiencies of claim 16 and is therefore further rejected. .

10. Claims 22-24 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claim 22 recites “a service retrieval apparatus”. However, claim 22 fails to contain any computer hardware that is used to implement the apparatus so as to realize its functionality. Thus, the body of claim 22 is merely an abstract idea and is being processed without any links to a practical result in the technology arts and without any computer hardware manipulation. Contrary to arguments made by some Applicants, use of the word “apparatus” does not inherently mean that the claim is directed to a machine. Only if at least one of the claimed elements of the apparatus is a physical part of a device can the apparatus as claimed constitute part of a device or a combination of devices to be a machine within the meaning of 101. Claim 22 fails to resolve the deficiencies of claim 1 and is therefore further rejected.

Claim Rejections - 35 USC § 103

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11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 1, 8, 16, 22-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent Application Publication 2002/0051178 by Nakayasu et. al. (hereafter Nakayasu) further in view of U.S. Patent Application Publication 2002/0075509 by Wiechers (hereafter Wiechers).

Claim 1:

Nakayasu discloses the following claimed limitations:

“a retrieval unit that sets a retrieval condition according to the request from the client and performs a first retrieval over the network for at least one of a print service and a scan service based upon the set retrieval condition;”[0047, a print request and location information are communicated to service provider 5 via a cellular telephone carrier and service provider 4. 0054, service provider 5 receives the selected printer, print conditions, and print information. 0055, service provider 5 sends the specified print contents to a printer at the specified store by way of the internet and connection provider 7. Accordingly, a retrieval unit (service provider) that sets a retrieval condition (receives the selected printer, print contents, and print information) according to the request (request) from the client (client) and performs a first retrieval over the

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network for at least one of a print service (sends the specified print contents to a printer at the specified store by way of the internet) and a scan service based upon the set retrieval condition (selected printer).]

“the geographical area being an area in which a server providing a service is located”[figure 13, locations of the nearest printing agent stores. Accordingly, the geographical area being an area (location) in which a server (printing agent stores) providing a service is located (location)]

“the geographic area being an area in which a server providing a service is located, and the retrieval unit performs the second retrieval.”[figure 1 and figure 13. the geographic area being an area in which a server providing a service is located (figure 13), and the retrieval unit performs the second retrieval (figure 14, step S33)]

Nakayasu does not explicitly disclose:

“a retrieval result judgment unit that judges whether or not a result of the first retrieval satisfies judgment criteria set in advance; and” [a retrieval result judgment unit () that judges whether or not a result of the first retrieval satisfies judgment criteria set in advance]

“a retrieval result output unit that outputs the result which is judged to satisfy the judgment criteria, wherein

“when it is judged that a number of one or more services included in the result of the first retrieval that has not reached a lower limit number set as the judgment criteria,” “the retrieval unit changes a geographic area which is to be searched to be wider to perform a second retrieval,”

On the other hand, Wiechers discloses:

“a retrieval result judgment unit that judges whether or not a result of the first retrieval satisfies judgment criteria set in advance; and” [a retrieval result judgment unit (figure 3) that judges whether or not a result of the first retrieval satisfies judgment criteria set in advance (figure 3 element 235)]

“a retrieval result output unit that outputs the result which is judged to satisfy the judgment criteria,” [figure 3 elements 230, 255]

“wherein when it is judged that a number of one or more services included in the result of the first retrieval that has not reached a lower limit number set as the judgment criteria,” [figure 3 element 250, cost expectations of user not met] “the retrieval unit changes a geographic area which is to be searched to be wider to perform a second retrieval,” [figure 3 element 240 to 225]

“wherein the retrieval unit retrieves a first service location included in a first geographical area in the first retrieval,” [wherein the retrieval unit retrieves a first service location (0025, localized printer) included in a first geographical area (0025, localized zone) in the first retrieval (0025, printer search)]

“the retrieval unit retrieves a second service location included in a second geographical area in the second retrieval; and” [the retrieval unit retrieves a second service location (0025, localized printer) included in a second geographical area (0029, new localized zone of printer candidates) in the second retrieval (0029, printer search)]

“the service locations being locations searchable on the network and identifying services”[the service locations (0025, localized printer) being locations searchable on the network (0025, printer search) and identifying services (0009, user parameters)]

Both Nakayasu and Wiechers are within Applicant’s field of endeavor, namely searching for the nearest services. It would have been obvious to a person of an ordinary skill in the art at the time the invention was made to have applied Wiecher's disclosure above to the system of Nakayasu for the purpose of providing the minimum distance network printer with particular services.

Claim 8:

Nakayasu discloses the following claimed limitations:

“a service information database that stores service information including address information and installation position information of the server and attribute information of at least one of a print service and a scan service provided by the server;”[a service information database (figure 1 element 3) that stores service information (stores, 0051, 0052) including address information (zip code, 0051) and installation position information of the server (longitude/latitude, 0051) and attribute information of at least one of a print service (printing fees, 0052) and a scan service provided by the server (printer, 0052)]

“a service retrieval apparatus database that, when the network is divided into a plurality of sub-networks, stores address information and installation position information of a service retrieval apparatus with each sub-network included in a retrieval range;”[a service retrieval

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apparatus database that (figure 1 element 3), when the network is divided into a plurality of sub-networks (0051 printer sites), stores address information (zip code, 0051, 0052) and installation position information (longitude/latitude, 0051) of a service retrieval apparatus with each sub-network included in a retrieval range (0052, selects top three printers closest to the location)]

“a retrieval range setting unit that, by retrieving the service retrieval apparatus database based upon inputted retrieval conditions, specifies one or more service retrieval apparatuses conforming to the retrieval conditions and sets sub-networks, which correspond to the specified service retrieval apparatuses, as a retrieval range for the request;”[0047, a print request and location information are communicated to service provider 5 via a cellular telephone carrier and service provider 4. 0054, service provider 5 receives the selected printer, print conditions, and print information. 0055, service provider 5 sends the specified print contents to a printer at the specified store by way of the internet and connection provider 7. Accordingly, a retrieval range setting unit (0047, location information communicated) that, by retrieving the service retrieval apparatus database based upon inputted retrieval conditions (0051, near by printer information is sent, 0052-0053), specifies one or more service retrieval apparatuses conforming to the retrieval conditions (0052, selects top three printers closest to location) and sets sub-networks (zip-code, 0051), which correspond to the specified service retrieval apparatuses (figure 1, connection service provider), as a retrieval range for the request (0052, top 3)]

“a retrieval unit that executes a first retrieval over the network for a service according to the set retrieval range for the request;”[0054, service provider receives the selected printer, print contents, and print information. 0055, service provider sends the specified print contents to a printer at the specified store by way of internet and connection provider. Accordingly, a retrieval

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unit (service provider) that executes a first retrieval over the network for a service (print contents obtained and sent to printer) according to the set retrieval range for the request (selected printer)]

“the geographic area being an area in which a server providing a service is located, and the retrieval unit performs the second” [figure 14 and figure 13. the geographic area being an area in which a server providing a service is located (figure 13), and the retrieval unit performs the second retrieval (figure 14, step S33)]

Nakayasu does not explicitly disclose:

“a retrieval result judgment unit that judges whether or not a result of the first retrieval satisfies judgment criteria set in advance; and”

“a retrieval result output unit that outputs the result which is judged to satisfy the judgment criteria, wherein when it is judged that a number of one or more services included in the result of the first retrieval does not reach a lower limit number set as the judgment criteria, the retrieval unit changes a geographic area which is to be searched to be wider to perform a second retrieval.”

On the other hand, Wiechers discloses:

“a retrieval result judgment unit that judges whether or not a result of the first retrieval satisfies judgment criteria set in advance; and” [a retrieval result judgment unit (figure 3) that judges whether or not a result of the first retrieval satisfies judgment criteria set in advance (figure 3 element 250)]

“a retrieval result output unit that outputs the result which is judged to satisfy the judgment criteria,” [figure 3 elements 230, 255]

“wherein when it is judged that a number of one or more services included in the result of the first retrieval that has not reached a lower limit number set as the judgment criteria,” [figure 3 element 250, cost expectations of user not met] “the retrieval unit changes a geographic area which is to be searched to be wider to perform a second retrieval,” [figure 3 element 240 to 225]

“wherein the retrieval unit retrieves a first service location included in a first geographical area in the first retrieval,” [wherein the retrieval unit retrieves a first service location (0025, localized printer) included in a first geographical area (0025, localized zone) in the first retrieval (0025, printer search)]

”the retrieval unit retrieves a second service location included in a second geographical area in the second retrieval; and” [the retrieval unit retrieves a second service location (0025, localized printer) included in a second geographical area (0029, new localized zone of printer candidates) in the second retrieval (0029, printer search)]

“the service locations being locations searchable on the network and identifying services” [the service locations (0025, localized printer) being locations searchable on the network (0025, printer search) and identifying services (0009, user parameters)]

Both Nakayasu and Wiechers are within Applicant’s field of endeavor, namely searching for the nearest services. It would have been obvious to a person of an ordinary skill in the art at the time the invention was made to have applied Wiecher's disclosure above to the system of

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Nakayasu for the purpose of providing the minimum distance network printer with particular services.

Claim 16:

Nakayasu discloses the following claimed limitations:

“setting a retrieval condition in response to a request of the client;”[0047, location information communicated to service provider. Accordingly, setting a retrieval condition (location information) in response to a request of the client (print request)]

“performing a first retrieval over the network for at least one of a print service and a scan service based upon the retrieval condition;”[0054, service provider receives the selected printer, printer content, and print information. 0055, the print contents are obtained and this is sent to the printer. Accordingly, performing a first retrieval over the network for at least one of a print service (print contents obtained and this is sent to the printer) and a scan service based upon the retrieval condition (print request).]

“the geographic area being an area in which a server providing a service is located.”
[figure 14 and figure 13. the geographic area being an area in which a server providing a service is located (figure 13), and the retrieval unit performs the second retrieval (figure 14, step S33)]

Nakayasu does not explicitly disclose:

“judging whether or not a result of the first retrieval satisfies judgment criteria set in advance;”

“returning the result of the retrieval which is judged to satisfy the judgment criteria to the client; and”

“when it is judged that a number of one or more services included in the result of the first retrieval does not reach a lower limit number set as the judgment criteria, changing a geographic area which is to be searched to be wider to perform a second retrieval“

On the other hand, Wiechers discloses:

“judging whether or not a result of the first retrieval satisfies judgment criteria set in advance; and” [a retrieval result judgment unit (figure 3) that judges whether or not a result of the first retrieval satisfies judgment criteria set in advance (figure 3 element 250)]

“returning the result of the retrieval which is judged to satisfy the judgment criteria to the client,” [figure 3 elements 230, 255]

“when it is judged that a number of one or more services included in the result of the first retrieval does not reach a lower limit number set as the judgment criteria,”[figure 3 element 250, cost expectations of user not met] “changing a geographic area which is to be searched to be wider to perform a second retrieval,” [figure 3 element 240 to 225]

“wherein the retrieval unit retrieves a first service location included in a first geographical area in the first retrieval,”[wherein the retrieval unit retrieves a first service location (0025, localized printer) included in a first geographical area (0025, localized zone) in the first retrieval (0025, printer search)]

”the retrieval unit retrieves a second service location included in a second geographical area in the second retrieval; and” [the retrieval unit retrieves a second service location (0025,

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localized printer) included in a second geographical area (0029, new localized zone of printer candidates) in the second retrieval (0029, printer search)]

“the service locations being locations searchable on the network and identifying services”[the service locations (0025, localized printer) being locations searchable on the network (0025, printer search) and identifying services (0009, user parameters)]

Both Nakayasu and Wiechers are within Applicant’s field of endeavor, namely searching for the nearest services. It would have been obvious to a person of an ordinary skill in the art at the time the invention was made to have applied Wiecher's disclosure above to the system of Nakayasu for the purpose of providing the minimum distance network printer with particular services.

Claim 22:

Nakayasu discloses the following claimed limitations:

“a retrieval unit that sets a retrieval condition with respect to a retrieval range according to the search request from the client and performs a first retrieval for at least one of a print service and a scan service based upon the set retrieval condition, the retrieval range indicating a sub-network of the network subjected to the first retrieval;”[0047, a print request and location information are communicated to service provider 5 via a cellular telephone carrier and service provider 4. 0054, service provider 5 receives the selected printer, print conditions, and print information. 0055, service provider 5 sends the specified print contents to a printer at the specified store by way of the internet and connection provider 7. Accordingly, a retrieval unit

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that sets a retrieval condition (location information communicated to service provider) with respect to a retrieval range (selected printer) according to the search request from the client (request) and performs a first retrieval for at least one of a print service (send print contents to printer) and a scan service based upon the set retrieval condition (selected printer), the retrieval range indicating a sub-network of the network subjected to the first retrieval (location information)]

“the geographic area being an area in which a server providing a service is located, and the retrieval unit performs the second retrieval” [figure 14 and figure 13. the geographic area being an area in which a server providing a service is located (figure 13), and the retrieval unit performs the second retrieval (figure 14, step S33)]

Nakayasu does not explicitly disclose

“a retrieval result judgment unit that judges whether or not a result of the first retrieval satisfies judgment criteria set in advance; and”

“a retrieval result output unit that outputs the result which is judged to satisfy the judgment criteria, wherein when it is judged that a number of one or more services included in the result of the first retrieval has not reached a lower limit number set as the judgment criteria, the retrieval unit changes a geographic area which is to be searched to be wider to perform a second retrieval,.”

On the other hand, Wiechers discloses:

“a retrieval result judgment unit that judges whether or not a result of the first retrieval satisfies judgment criteria set in advance; and” [a retrieval result judgment unit (figure 3) that judges whether or not a result of the first retrieval satisfies judgment criteria set in advance (figure 3 element 250)]

“a retrieval result output unit that outputs the result which is judged to satisfy the judgment criteria,” [figure 3 elements 230, 255]

“wherein when it is judged that a number of one or more services included in the result of the first retrieval that has not reached a lower limit number set as the judgment criteria,” [figure 3 element 250, cost expectations of user not met] “the retrieval unit changes a geographic area which is to be searched to be wider to perform a second retrieval,” [figure 3 element 240 to 225]

“wherein the retrieval unit retrieves a first service location included in a first geographical area in the first retrieval,” [wherein the retrieval unit retrieves a first service location (0025, localized printer) included in a first geographical area (0025, localized zone) in the first retrieval (0025, printer search)]

”the retrieval unit retrieves a second service location included in a second geographical area in the second retrieval; and” [the retrieval unit retrieves a second service location (0025, localized printer) included in a second geographical area (0029, new localized zone of printer candidates) in the second retrieval (0029, printer search)]

“the service locations being locations searchable on the network and identifying services” [the service locations (0025, localized printer) being locations searchable on the network (0025, printer search) and identifying services (0009, user parameters)]

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Both Nakayasu and Wiechers are within Applicant's field of endeavor, namely searching for the nearest services. It would have been obvious to a person of an ordinary skill in the art at the time the invention was made to have applied Wiecher's disclosure above to the system of Nakayasu for the purpose of providing the minimum distance network printer with particular services.

Claim 23:

Nakayasu discloses "if the search request from the client includes neither the retrieval range nor a retrieval target area, the retrieval unit judges whether or not a service to be retrieved is a service for which a geographical condition is important, and if the service to be retrieved is the service for which the geographical condition is judged to be important, the retrieval unit sets an area which is geographic vicinity as the retrieval range of the first retrieval." [figure 14 steps s33 and s34]

Claim 24:

Nakayasu discloses "wherein the retrieval unit defines a circle with latitude and longitude coordinates of its own installation place as a center and a predetermined value as a radius, and retrieves the service whose latitude and longitude coordinates are included inside the circle." [figure 13]

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13. Claims 7, 14, and 21 rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent Application Publication 2002/0051178 by Nakayasu et. al. (hereafter Nakayasu) and U.S. Patent Application Publication 2002/0075509 by Wiechers (hereafter Wiechers) further in view of US Patent 7085763 by Ochiai et. al. (hereafter Ochiai).

Claim 7:

Nakayasu and Wiechers do not explicitly disclose “a reply unit that rearranges the result of the retrieval based upon values with respect to attribute items included in the retrieval condition, and then returns the result of the retrieval to said client” alone.

Ochiai discloses a reply unit (figure 16) that rearranges the result of the retrieval (col. 12 lines 28-34) based upon values with respect to attribute items (attribute) included in the retrieval condition (col. 12 lines 22-24, attributes to be searched is obtained from a search condition), and then returns the result of the retrieval to said client (col. 12 lines 20-21, search-result displaying operations of a search client).

Nakayasu, Wiechers, and Ochiai are all within the same field of endeavor as applicant's invention. It would have been obvious to a person of an ordinary skill in the art at the time the invention was made to have applied Ochiai's disclosure above to the combination of Nakayasu and Wiechers for the purpose of providing the results of devices that are arranged starting with a device having the most matched attributes first in a display to client.

Claim 14:

Nakayasu and Wiechers do not explicitly disclose “a reply unit that rearranges the result of the retrieval based upon values with respect to attribute items included in the retrieval condition, and then returns the result of the retrieval to said client” alone.

Ochiai discloses a reply unit (figure 16) that rearranges the result of the retrieval (col. 12 lines 28-34) based upon values with respect to attribute items (attribute) included in the retrieval condition (col. 12 lines 22-24, attributes to be searched is obtained from a search condition), and then returns the result of the retrieval to said client (col. 12 lines 20-21, search-result displaying operations of a search client).

Nakayasu, Wiechers, and Ochiai are all within the same field of endeavor as applicant's invention. It would have been obvious to a person of an ordinary skill in the art at the time the invention was made to have applied Ochiai's disclosure above to the combination of Nakayasu and Wiechers for the purpose of providing the results of devices that are arranged starting with a device having the most matched attributes first in a display to client.

Claim 21:

Nakayasu and Wiechers do not explicitly disclose “rearranging the result of the retrieval with respect to attribute items included in the retrieval condition, and returning the rearranged result of the retrieval to the client” alone.

Ochiai discloses a reply unit (figure 16) that rearranges the result of the retrieval (col. 12 lines 28-34) based upon values with respect to attribute items (attribute) included in the retrieval condition (col. 12 lines 22-24, attributes to be searched is obtained from a search condition), and then returns the result of the retrieval to said client (col. 12 lines 20-21, search-result displaying operations of a search client).

Nakayasu, Wiechers, and Ochiai are all within the same field of endeavor as applicant's invention. It would have been obvious to a person of an ordinary skill in the art at the time the invention was made to have applied Ochiai's disclosure above to the combination of Nakayasu and Wiechers for the purpose of providing the results of devices that are arranged starting with a device having the most matched attributes first in a display to client.

Response to Arguments

14. Applicant's arguments filed 10/16/08 have been fully considered but they are not persuasive. Applicant's asserted the following with regards to the cited reference.

A. Applicant's assert that the "second retrieval" in Wiecher's routine 200 is performed within the same localized zone in which a first retrieval was performed. That the assessor 25 does not change a geographic area which is to be searched to be wider to perform a second retrieval.

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In response, the examiner respectfully disagrees that the geographic area does not change to be wider to perform a second retrieval. The object of Wiecher's system is to find the closest printer. The search widens because the geographic area changes, see figure 3 element 240 and paragraph 0029. When it is found that the first localized zone does not satisfy, the search is changed to be in a new localized zone, and therefore the search is widened.

B. That Nakayasu and Wiechers fail to disclose or render obvious the feature recited in amended claim 1, 8, and 22, and similarly claim 16 "...wherein the retrieval unit retrieves a first service location included in a first geographic area...the retrieval unit retrieves a second service location included in a second geographic area in the second retrieval..."

Wiecher's second search is limited to a single localized zone established in step 225 and does not search within a second geographic area. See paragraph 0027 and figure 3.

Asserting that if the first search of Wiecher is unsuccessful, the assessor 25 advances from step 245 to step 240 before looping back to step 240 to determine the next suitable printer candidate within the localized zone.

In response, the examiner respectfully disagrees that "...wherein the retrieval unit retrieves a first service location included in a first geographic area...the retrieval unit retrieves a second service location included in a second geographic area in the second retrieval..." is not disclosed. As stated in the rejection, "wherein the retrieval unit retrieves a first service location included in a first geographic area" is shown in steps 225 and 230 of figure 3; " the retrieval unit retrieves a

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second service location included in a second geographic area in the second retrieval" is disclosed in figure 3 elements 240, 225, and 230, and described in 0029.

C. Nakayasu and Wiechers fail to disclose, and would not have rendered obvious that when it is judged that a number of one or more services included in a result of a first retrieval has not reached a lower limit number set as judgement criteria, a retrieval unit area which is to be searched to be wider to perform a second retrieval because Wiecher's second search is conducted in the original localized zone established in step 225 and not a "second geographic area".

In response, the examiner respectfully disagrees. The combination of Nakayasu and Wiechers does disclose when it is judged that a number of one or more services included in a result of a first retrieval has not reached a lower limit number set as judgement criteria, a retrieval unit area which is to be searched to be wider to perform a second retrieval, please see rejection and above part A and B. Regarding, Wiecher's second search is conducted in the original localized zone established in step 225 and not a geographic area, the examiner disagrees. The second search of Wiecher's is conducted in a new localized zone as discussed in paragraph 0029.

Conclusion

15. The prior art made of record listed on PTO-892 and not relied, if any, upon is considered pertinent to applicant's disclosure.

Contact Information

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael D. Pham whose telephone number is (571)272-3924. The examiner can normally be reached on Monday - Friday 9am - 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Cottingham can be reached on 571-272-7079. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/M. P./
Examiner, Art Unit 2167

/John R. Cottingham/
Supervisory Patent Examiner, Art Unit
2167

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